

**PROPOSED AMENDMENTS BASED
UPON COMMENTS RECEIVED IN WRITING AND
AT THE OPENING HEARING
on the
PROPOSED CHANGES TO SECTION VII - AFFORDABLE
HOUSING - 03/04/08 – PUBLIC HEARING DRAFT**

~~Strikethrough~~ indicates language proposed for deletion from 03/04/08 Draft
Underline indicates language proposed for inclusion in 03/04/08 Draft

Section 2 – Affordable Housing

Proposed Amendment, Page 1, Section 2. (In response to comments at “Public Hearing” from Ms. Everett and Mr. Buckley):

2. Affordable Housing

Purpose and Intent

The purpose and Intent of this Section is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Comprehensive Plan, MGL. c. 40B sec. 20-23 and ongoing programs within the Town to promote ~~a reasonable percentage~~ the creation of housing that is affordable. It is intended that the affordable housing units that result from this Section be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Massachusetts Department of Housing and Community Development (DHCD) and that said units count toward the Town’s requirements under G. L. c. 40B sec. 20-23 on the Subsidized Housing Inventory (SHI). The overall intent of this Section is to:

- Provide the opportunity to create various types of high-quality dwelling units affordable to low or moderate income households.
 - Promote geographic distribution of affordable housing units throughout the Town ~~and avoid over-concentration.~~
 - Approve units consistent with neighborhood and overall community character
 - Assist the Town in creating units eligible for the Chapter 40B ***Subsidized Housing Inventory*** (SHI).
 - Maintain a stable economy by preventing out-migration of residents who provide essential services.
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Section 2.1 - Definitions

Proposed Amendment, Page 2, Section 2-1. (#9 in “Response to Comments” document):

Affordable Price, used in reference to a dwelling unit, means ~~a monthly rent or mortgage payment~~ housing costs which does not exceed 30% of the gross monthly income of a household whose income is 70% of the median income for Barnstable County as reported by the United States Department of Housing and Urban Development (HUD).

Add following new definition:

Housing Costs, for rental units include rent and utilities; while housing costs for ownership units include mortgage principal and interest, property taxes, property insurance, mortgage insurance, and condominium and/or homeowners’ association fees.

Proposed Amendment, Pages 1-3, Section 2-1. (In response to comments at “Public Hearing” from Mr. Pacun and Mr. Buckley):

Affordable, used in reference to dwelling units means intended for rental or sale to low or moderate **income eligible** people and in conformance with the requirements of this Section in regard to price and income level of tenant (s).

Twenty Percent - Used in reference to the mandatory provision of affordable dwelling units, shall mean ~~two tenths~~ rounded to the nearest whole number.

Add following new definition:

Affordable Apartment, Incidental to a Commercial Use and Industrial Use means a dwelling unit intended for rental or sale to low or moderate **income eligible** people and in conformance with the requirements of this Section in regard to price and income level of tenant (s) located either within a commercial or industrial structure, or on a commercial or industrial lot where at least 51% of the total floor area of the building(s) above finish grade is utilized for commercial or industrial purposes .

Section 2.2 – Affordable Rental Units

Proposed Amendment, Page 4, Section 2-2.E.4. (Additional Staff Review):

4. Removal of Deed Restriction

In the event that an owner decides not to continue with the program, then the Affordable Housing Restriction recorded as a deed restriction shall be discharged by a recording of an appropriate document executed by ~~an authorized person~~ the LPA.

Section 2.3 – Affordable Homeownership Units

Proposed Amendment, Page 4, Section 2-3, D. (In response to comments at “Public Hearing” from Ms. Freeman):

- D. If a unit is offered for sale, the purchaser and the Town shall sign an agreement setting forth the procedure for establishing a resale price to keep the unit affordable in perpetuity upon its sale and granting the Town the right of first refusal should the seller fail to enter into a bona fide purchase and sale agreement with an **income eligible** buyer within ninety (90) days of the date that the unit is originally offered for sale.
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Section 2.4

Proposed Amendment, Page 6, Section 2-4.B.2.c. (#10 in “Response to Comments” document):

3. Marketing Plan

The selection of qualified purchasers or qualified renters shall be carried out under a marketing plan approved by the ~~Planning Board~~ LPA. The marketing plan must describe how the applicant will accommodate local preference requirements established by the Board of Selectmen, and federal or state fair housing laws.

Proposed Amendment, Page 8-9, Section 2-4.C.2.: & Section 2-4.C.3. (#6 in “Response to Comments” document):

2. Program Qualification

The procedure for qualifying units that meet the threshold criteria for the ***Amnesty Program*** is as follows:

- a. The unit or units must either be a single unit accessory to an owner occupied single-family dwelling or one or more units in a multi-family dwelling where there exists a legal multi-family use but one or more units are currently unpermitted;
- b. The property owner must agree that if s/he receives a Special Permit, the unit or units for which amnesty is sought will be rented to an ***income eligible*** person or family and shall further agree that rent (including utilities) shall not exceed an ***affordable price***.
- c. The property owner must agree, that if s/he receives a Special Permit, that s/he will execute a ***deed restriction*** in accordance with Section VII. 2-2 for the unit(s) for which amnesty is sought, prepared by the Town of Chatham, which runs with the property so as to be binding on and enforceable against any person claiming an interest in the property and which restricts the use of one or more units as rental units to an ***income eligible*** person or family.
- d. A person is deemed "not to be proceeding diligently" if s/he does not receive a Special Permit within 12 months from the date of the admission by real property owners that their property may be in violation of the Zoning Ordinances of the Town, or as such time extended by mutual agreement of the ZBA and the Applicant.

3. Program Procedure - The procedure for obtaining amnesty is as follows:

- a. No zoning enforcement shall be undertaken against any property owner who demonstrates that s/he meets the ***Amnesty Program*** threshold criteria under Subsection C.1a. and/or b. and further demonstrates that s/he is proceeding in good faith to comply with the procedures to obtain a Special Permit.
- b. Any protection from zoning enforcement under this Section shall terminate when:
 1. A written determination by the Building Commissioner is issued under the applicable criteria of this Section cannot be satisfied; or
 2. It is determined that the property owner is not proceeding diligently with his/her Special Permit application; or
 3. The property owner's Special Permit application is denied. ~~A person is deemed "not to be proceeding diligently" if s/he does not receive a Special Permit within 12 months from the date of the admission by real property owners that their property may be in violation of the Zoning Ordinances of the Town, or as such time extended by mutual agreement of the ZBA and the Applicant.~~

Section 2.5

Proposed Amendment, Page 9, Section 2-5. (#7 in “Response to Comments” document):

2-5. ~~Affordable Dwelling Units, Mandatory Provision~~ Mandatory Provisions To All Development, Rehabilitation and Conversions

Proposed Amendment, Page 11, Section 2-5.C.1. (In response to comments at “Public Hearing” from Mr. Pacun and Ms. Freeman):

C. Methods of Providing Affordable Dwelling Units

1. On-Site Units

The **affordable** units may be constructed or rehabilitated on the locus of the development and sold or rented to an **income-eligible** household at an **affordable** price, or the Planning Board may, in its discretion, approve one or more of the following methods, or any combination thereof, for the provision of **affordable** units. Notwithstanding, when the Planning Board is considering a **Density Bonus**, **affordable** units required by this Section shall be provided on-site.

Proposed Amendment, Page 11, Section 2-5.C.4. (#1 in “Response to Comments” document):

4. Fee in Lieu of Units

The Planning Board may allow a development of non-rental dwelling units to make a cash payment to the Town through its Affordable Housing Trust Fund for each **affordable** unit required by these regulations. The cash payment per unit shall be equal to ~~six~~ seven and one-half (~~6~~7.5) times the annual income of an **income-eligible** household of four.

Proposed Amendment, Page 12, Section 2-5.D.3. (#2 in “Response to Comments” document):

3. Deed Restriction

A **deed restriction** shall be placed upon the property limiting the rental rate or the resale price in perpetuity. The rental rate shall be restricted to meet the definition of **affordable price** under this Section. The formula for setting the resale price shall be as follows; at the time of the original purchase, a multiplier shall be determined by dividing the sales price by the **AMI** for the Barnstable County MSA as provided by the federal Department of Housing and Urban Development (HUD). At the time of sale of the unit, the multiplier times the **AMI** at the time of the sale (HUD). At the time of resale of the unit, the multiplier times the AMI at the time of the sale shall be the maximum sale price.

Proposed Amendment, Page 14, Section 2-5.F.4. (#11 in “Response to Comments” document):

4. Purchase of Units

Developers of rental projects may sell **affordable** units to the Town of Chatham, the **Chatham Housing Authority**, or to any non-profit housing development organization that serves the Town of Chatham, in order that such entity may carry out the steps needed to market the **affordable** housing units and manage the choice of buyers.

Proposed Amendment, Page 14, Section 2-5.G. (#3 in “Response to Comments” document):

G. Density Bonus

A development subject to this Section shall comply with the density and dimensional requirements set forth in Section III unless the Planning Board approves a Density Bonus. To facilitate the purpose and intent of Section VII. 2., Affordable Housing. Modifications to the dimensional requirements in any zoning district may be permitted for any project under Section 2-5, subject to the following:

1. Minimum Lot Area - The minimum lot area per dwelling unit normally required in the applicable zoning district shall be reduced by that amount necessary to permit up to two (2) additional units on the lot for each one (1) Affordable Unit required in this Section.

2. **Mandatory Percentage** - For any project under this Section that includes a total number of dwelling units that exceeds the maximum density allowed as of right in the underlying zoning district, the number of affordable units shall be no less than **10%** percent of the total number of dwelling units in the project; however, the number of additional units permitted under the above paragraph above shall not be further increased.
 3. **Special Permit** - In issuing a Special Permit the Planning Board shall find that the additional dwelling unit(s) permitted will not create a development significantly different in scale, density, or placement on the lot than can be found on adjacent lots or in the surrounding neighborhood; or if the development is significantly more dense, larger in scale or closer to the lot lines than can be found on adjacent lots, the Planning Board shall find that the size or shape of the lot, the characteristics of development on abutting lots, and the nature of the design proposed on the subject lot mitigate any negative impact that such additional development may impose. In making its findings the Planning Board shall consider the other kinds of dimensional relief that the development may require and the extent to which such relief varies from the requirements of the zoning district.
 4. **On-Site Unit Requirement** - **Affordable** units required by this Section shall be provided on-site. However, approval for alternate means of compliance noted in Section 2-5.C., Methods of Providing Affordable Dwelling Units, may be granted by the Planning Board in certain exceptional circumstances. In granting such approval, the Planning Board must find that the property owner has demonstrated that building the required affordable units on-site would create a significant hardship. A significant hardship shall be defined as being of such significance that the property can not physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the property owner, who must make full disclosure to the Planning Board of all relevant information. The Planning Board's approval of the request shall be based upon the demonstration of hardship made by the property owner.
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Proposed Amendment, Page 15, Section 2-5.G.1. to a new Section 2-5.B.3 as follows with revisions of Special Permit Review Criteria (#4 in “Response to Comments” document and in response to comments at “Public Hearing” from Ms. Everett):

3. Special Permit Review Criteria

In addition to addressing the applicable Special Permit criteria in Section VIII.C.4., when considering **Affordable** Dwelling Unit, Mandatory Provision Special Permit, with or without a Density Bonus, the Planning Board shall evaluate, as appropriate, the following:

- a. Impact on neighborhood character. How new **affordable** housing fits neighborhood character. In existing residential neighborhoods, housing should be built at scale, density, and character consistent with existing development patterns.

- b. Size and materials provided. **Affordable** units shall be generally comparable in size and materials to dwelling units in the surrounding neighborhood or in the ~~projection~~ which it is located.
 - c. Local needs for affordable housing. To ensure livability, **affordable** units shall be generally comparable in size and materials to the other units in the overall project and consistent with local needs for affordable housing.
 - d. Where appropriate exteriors of **affordable** units shall ~~closely~~ exactly resemble the exteriors of other units in a project, and shall be reasonably distributed throughout the project.
 - e. ~~At least one (1)~~ Two (2) parking spaces for each affordable unit shall be provided.
 - e. The **affordable** units shall, comply with the applicable provisions of Section VII. 2-2. for rental projects and Section VII. 2-3. for homeownership projects.
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Section VII - 4

Proposed Amendment, Page 15, Sect. 4, a., subsections 1 through 4. (#5 in “Response to Comments” document):

4. Apartment, Incidental to a Commercial Use and Industrial Use

Permitted in the Industrial I Districts and allowed by special permit in the General Business (GB) Districts as follows:

- a. The use shall comply with the dimensional requirements stipulated in Appendix II for the commercial use provided:
 - 1. The area of any lot shall provide not less than ten thousand (10,000) square feet of buildable upland for each apartment. Except for **Affordable Apartment, Incidental to a Commercial Use and Industrial Use** where the area of any lot shall provide not less than five thousand (5,000) square feet of buildable upland for each apartment.
 - 2. In the GB District there shall be no more than four (4) apartments in one building. Except for **Affordable Apartment, Incidental to a Commercial Use and Industrial Use**.
 - 3. There shall be living quarters of not more than two (2) stories above finish grade and none below such level.
 - 4. In the Industrial District, there shall be no more than one (1) two-bedroom apartment per lot incidental to the commercial or industrial use. Except for **Affordable Apartment, Incidental to a Commercial Use and Industrial Use**.
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Proposed Amendment, Page 15, Sect. 4, a., subsections 1 through 4. (#8 in “Response to Comments” document):

4. Apartment, Incidental to a Commercial Use and Industrial Use

Permitted in the Industrial I Districts and allowed by special permit in the General Business (GB) Districts as follows:

- a. The use shall comply with the dimensional requirements stipulated in Appendix II for the commercial use provided:
 1. The area of any lot shall provide not less than ten thousand (10,000) square feet of buildable upland for each apartment; except for **Affordable Apartment, Incidental to a Commercial Use and Industrial Use** where the area of any lot shall provide not less than five thousand (5,000) square feet of buildable upland for each apartment.
 2. In the GB District there shall be no more than four (4) apartments in one building; except for **Affordable Apartment, Incidental to a Commercial Use and Industrial Use**.
 3. There shall be living quarters of not more than two (2) stories above finish grade and none below such level.
 4. In the Industrial District, there shall be no more than one (1) two-bedroom apartment per lot incidental to the commercial or industrial use; except for **Affordable Apartment, Incidental to a Commercial Use and Industrial Use**.
 5. All **Affordable Apartment, Incidental to a Commercial Use and Industrial Use** shall be subject to the applicable requirements of Section VII 2-2.
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